

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**MARCUS HAHN,**

**Petitioner,**

**v.**

**No. 21-cv-0880 KWR-SMV  
No. 00-cr-0082 KWR-SMV**

**UNITED STATES OF AMERICA,**

**Respondent.**

**ORDER FOR LIMITED ANSWER**

THIS MATTER is before the Court on Petitioner's Amended Motion to Vacate Conviction Under 28 U.S.C. § 2255, filed September 19, 2022 [CV Doc. 15] (Amended Motion). Petitioner initiated this § 2255 proceeding on September 7, 2021. *See* [CV Doc. 1]; [CR Doc. 254]. The opening pleading was filed within one year after entry of the 2020 Judgment re-sentencing Petitioner. [CR Doc. 251]. However, it appears many of Petitioner's claims address defects in the original criminal proceeding, which took place over 20 years ago. Petitioner already filed a § 2255 proceeding, and the current habeas claims may qualify as second/successive. *See* [CR Docs. 141, 149]; *Spitznas v. Boone*, 464 F.3d 1213, 1215 (10th Cir. 2006) (setting forth the standard for when to construe a habeas claim as a second/successive). The Court lacks jurisdiction over second/successive § 2255 claims absent authorization from the Tenth Circuit. *See* 28 U.S.C. § 2255(h); *In re Cline*, 531 F.3d 1249, 1251 (10th Cir. 2008).

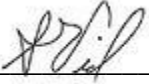
The Court will direct the United States to file a limited answer to the Amended Motion [CV Doc. 15] within 30 days of entry of this Order. The limited answer must address: (1) which

claims, if any, are second/successive; (2) the extent to which Petitioner can challenge the Amended Judgment entered September 25, 2020; (3) which claims, if any, are potentially cognizable (i.e., not barred as second or successive) based on that Amended Judgment; and (4) the merits of any potentially cognizable claims. Petitioner may file an optional 20-page reply brief within 21 days after the filing of the limited answer. However, Petitioner is reminded that the Amended Motion filed September 19, 2022 [CV Doc. 15] is the controlling pleading in this case. Petitioner received a final warning regarding his voluminous filings, *see* [Doc. 14], and if he continues to file amendments, supplements, and motions to reconsider aside from the single, 20-page reply, the Court may still dismiss this case on that basis.

**IT IS ORDERED** that no later than **November 3, 2022**, the United States **FILE** a limited answer as set forth above.

**IT IS FURTHER ORDERED** that Petitioner may file an optional reply within 21 days after entry of the limited answer.

**IT IS SO ORDERED.**

  
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**STEPHAN M. VIDMAR**  
United States Magistrate Judge